

Agricultural Marketing Service, USDA

§ 927.80

(b) The Secretary shall terminate or suspend the operation of any or all of the provisions of this subpart whenever he or she finds that such operation obstructs or does not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this subpart applicable to fresh pears for market or pears for processing at the end of any fiscal period whenever the Secretary finds, by referendum or otherwise, that such termination is favored by a majority of growers of fresh pears for market or pears for processing, respectively: *Provided*, That such majority has during such period produced more than 50 percent of the volume of fresh pears for market or pears for processing, respectively, in the production area. Such termination shall be effective only if announced on or before the last day of the then current fiscal period.

(d) The Secretary shall conduct a referendum within every six-year period beginning on May 21, 2005, to ascertain whether continuance of the provisions of this subpart applicable to fresh pears for market or pears for processing are favored by producers of pears for the fresh market and pears for processing, respectively. The Secretary may terminate the provisions of this subpart at the end of any fiscal period in which the Secretary has found that continuance of this subpart is not favored by producers who, during a representative period determined by the Secretary, have been engaged in the production of fresh pears for market or pears for processing in the production area: *Provided*, That termination of the order shall be effective only if announced on or before the last day of the then current fiscal period.

(e) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ 927.79 Proceedings after termination.

(a) Upon the termination of this subpart, the members of the Fresh Pear Committee or the Processed Pear Committee then functioning shall continue as joint trustees for the purpose of liquidating all funds and property then in the possession or under the control of the Fresh Pear Committee or the Proc-

essed Pear Committee, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The joint trustees shall continue in such capacity until discharged by the Secretary; from time to time account for all receipts and disbursements; deliver all funds and property on hand, together with all books and records of the Fresh Pear Committee or the Processed Pear Committee and of the joint trustees, to such person as the Secretary shall direct; and, upon the request of the Secretary, execute such assignments or other instruments necessary and appropriate to vest in such person full title and right to all of the funds, property, or claims vested in the Fresh Pear Committee or the Processed Pear Committee or in said joint trustees.

(c) Any funds collected pursuant to this subpart and held by such joint trustees or such person over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the joint trustees or such other person in the performance of their duties under this subpart, as soon as practicable after the termination hereof, shall be returned to the handlers pro rata in proportion to their contributions thereto.

(d) Any person to whom funds, property, or claims have been transferred or delivered by the Fresh Pear Committee or the Processed Pear Committee or its members, upon direction of the Secretary, as provided in this section, shall be subject to the same obligations and duties with respect to said funds, property, or claims as are imposed upon the members or upon said joint trustees.

§ 927.80 Amendments.

Amendments to this subpart may be proposed from time to time by the Fresh Pear Committee or the Processed Pear Committee or by the Secretary.

Subpart—Rules and Regulations

SOURCE: 70 FR 59625, Oct. 13, 2005, unless otherwise noted.

§ 927.100

DEFINITIONS

§ 927.100 Terms.

Each term used in this subpart shall have the same meaning as when used in the marketing order.

[70 FR 59625, Oct. 13, 2005, as amended at 71 FR 7676, Feb. 14, 2006]

§ 927.101 [Reserved]

§ 927.102 Order.

Order means Marketing Order No. 927, as amended (§§ 927.1 to 927.81), regulating the handling of pears grown in the States of Oregon and Washington.

[71 FR 7676, Feb. 14, 2006]

§ 927.103 Organically produced pears.

Organically produced pears means pears that have been certified by an organic certification organization currently registered with the Oregon or Washington State Departments of Agriculture, or such certifying organization accredited under the National Organic Program.

COMMUNICATIONS

§ 927.105 Communications.

Unless otherwise prescribed in this subpart or in the order, or required by the Fresh Pear Committee or the Processed Pear Committee, all reports, applications, submittals, requests, inspection certificates, and communications in connection with the order shall be forwarded to: Fresh Pear Committee, 4382 SE International Way, Suite A, Milwaukie OR 97222-4635 and or the Processed Pear Committee, 105 South 18th Street, Suite 205, Yakima WA 98901.

[71 FR 7676, Feb. 14, 2006]

EXEMPTIONS AND SAFEGUARDS

§ 927.120 Pears for charitable or by-product purposes.

Pears which do not meet the requirements of the then effective grade, size, or quality regulations shall not be shipped or handled for consumption by any charitable institution or for distribution by any relief agency or for conversion into any by-product, unless there first shall have been delivered to

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the manager of the Fresh Pear Committee a certificate executed by the intended receiver and user of said pears showing, to the manager's satisfaction, that said pears actually will be used for one or more of the aforesaid purposes.

[70 FR 59625, Oct. 13, 2005, as amended at 71 FR 7676, Feb. 14, 2006]

§ 927.121 Pears for gift purposes.

There are exempted from the provisions of the order any and all pears which, in individual gift packages, are shipped directly to, or which are shipped for distribution without resale to, an individual person as the consumer thereof, and any and all pears which, in individual gift packages are shipped directly to, or are shipped for distribution without resale to, a purchaser who will use these pears solely for gift purposes and not for sale.

[70 FR 59625, Oct. 13, 2005, as amended at 71 FR 7676, Feb. 14, 2006]

§ 927.122 [Reserved]

§ 927.123 Interest and late payment charges.

Payments received more than 45 days after the date on which they are due shall be considered delinquent and subject to a late payment charge of \$25.00 or 2 percent of the total due, whichever is greater. Payments received more than 60 days after the date on which they are due shall be subject to a 1½ percent interest charge per month, until final payment is made and interest shall be applied to the total unpaid balance, including the late payment charge and any accumulated interest. Any amount paid shall be credited when the payment is received in the Fresh Pear Committee or Processed Pear Committee office.

[70 FR 59625, Oct. 13, 2005, as amended at 71 FR 7676, Feb. 14, 2006]

REPORTS

§ 927.125 Fresh pear reports.

(a) Each handler shall furnish to the Fresh Pear Committee, as of every other Friday or at such other times established by the Fresh Pear Committee, a "Handler's Statement of